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C O N F I D E N T I A L SECTION 01 OF 02 BEIRUT 002970

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NSC FOR ABRAMS/DORAN/MARCHESE/HARDING

E.O. 12958: DECL: 09/13/2016  
TAGS: [PREL](#) [KCRM](#) [LE](#)  
SUBJECT: LEBANON: RIZK ON HARIRI TRIBUNAL STATUTE

REF: STATE 140003

Classified By: Jeffrey D. Feltman, Ambassador. Reason 1.4 (b) and (d).

SUMMARY  
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¶1. (C/NF) During a September 11 meeting with Ambassador and poloff at his Asrafieh home, Lebanese Minister of Justice Charles Rizk discussed the draft statute to establish a tribunal to try suspects in the Hariri assassination (and possibly other related attacks). He focused particularly on the issues of legal jurisdiction of the tribunal to try people for "crimes against humanity" and the temporal jurisdiction of the court to cover all "related" attacks between October 2004 and December 2005. Rizk's main concerns are that the UN Security Council be united on whatever draft they forward to the GOL for approval and that Hizballah not scuttle the tribunal. Rizk also gave a frank appraisal of his friend President Emile Lahoud's state of mind. END SUMMARY.

REWORKING "CRIMES AGAINST HUMANITY"  
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¶2. (C) Rizk said that his five-hour meeting with Nicolas Michel during the latter's visit to Beirut last week had gone well, and had mostly focused around Article 3 of the draft statute regarding "Crimes Against Humanity." Michel explained to Rizk that this was only inserted into the statute to provide against immunity for heads of state. However, Rizk understands that the Russians and Chinese are opposed to the current formulation since it is similar to that in the Rome Statute for the International Criminal Court. Why, they ask, does a separate tribunal need to be established at all? Rizk said French Ambassador to Lebanon Bernard Emie had also expressed personal reservations to Article 3 since it seems "inappropriate" following the recent 33 days of "Israeli crimes against humanity." The Ambassador noted that the USG does not like the inclusion of Article 3 in the statute either.

¶3. (C) This potential P5 disunity poses a political problem for Rizk, who added that he cannot sell the statute to Hizballah and Syria's defenders in Lebanon without clear Security Council backing. At the end of their meeting, Rizk

asked Michel to try and find an acceptable formulation in New York. Rizk said he had brainstormed on the Article 3 issue, and suggests the following: simply drop the heading "Article Three - Crimes Against Humanity" and append the relevant text -- which does not contain the term "crimes against humanity" -- as a second paragraph under Article 1. Rizk believes that this rearrangement would remove any direct reference to "crimes against humanity" per se, but would retain the important text which -- and on this Rizk isn't sure -- still provides against immunities. He invited any USG formulations on how to achieve the objective of making sure that the special tribunal overrides any presidential immunities contained in national laws.

TEMPORAL JURISDICTION; NEED NASRALLAH BUY-IN  
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¶4. (C/NF) Rizk, who has been advised not to go out much due to death threats, said he plans to see Hassan Nasrallah in the coming days to review the draft statute with him (though presumably not with updated Article 3 language). The Ambassador queried this approach, but Rizk argued that it is of more use to negotiate with Nasrallah than with Nabih Berri or Lahoud. "If Nasrallah is ok, then Berri is ok," Rizk claimed, "I want to take Nasrallah head-on. That will solve Lahoud, Berri, and the two Hizballah Cabinet ministers." Rizk said he is just waiting for a call from Nasrallah's people, who will give him an hour or two lead time before taking him to a meeting place. (When the Ambassador talked with Rizk by phone on 9/13 to thank him for help in securing the release of a U.S. ship detained at the Beirut port, Rizk confirmed that he had not yet seen Nasrallah.)

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¶5. (C/NF) Rizk suspects that Nasrallah will balk at the current Article 1 and Article 5 language of the draft statute giving the tribunal jurisdiction for the Hariri assassination as well as "other related acts of a similar nature" between 01 October 2004 and 31 December 2005. Anticipating that he may have to concede something to Nasrallah on this point, Rizk asked for the Ambassador's advice. Reflecting the USG position in reftel, the Ambassador suggested that the "other related acts" language could be tightened somewhat to more clearly spell out the links -- perhaps through similar core perpetrators -- to the Hariri assassination. Rizk liked the idea and said he would keep it in his back pocket when dealing with Nasrallah.

¶6. (C) Rizk said that his goal is to deliver the statute without "splitting the Hariris and Hizballah." According to Rizk, the Hariri camp -- Saad, Nazek, and former Justice Minister Bahij Tabbareh -- are pleased with the draft statute as it is. Noting that he does not believe Siniora is "aware of the subtlety" involved in gaining GOL approval without causing a Cabinet split, Rizk anticipates that it will be several months -- perhaps as late as January/February -- before the statute is approved and ready for signing.

GLOOM IN BA'ABDA  
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¶7. (C) As far as his old friend Emile Lahoud is concerned, Rizk says that the President dearly wants to be involved in the minutiae of the negotiations on the statute, and claims that he has the sole constitutional right to approve the statute since it should -- in Lahoud's mind -- be classified as an international treaty. Rizk said that he will just work around Lahoud, who has grown "paranoid" and "difficult to manage," tending to blame all of his problems on French President Chirac. "If it rains in Vietnam," quipped Rizk, "then it must have been Chirac's fault." Rizk said that for the first time in Lahoud's tenure the mood among the staff of Ba'abda Palace is turning sour. "People are complaining," Rizk confided, "It has built up."

18. (C/NF) According to Rizk, Lahoud is desperate to have former presidential security chief Mustapha Hamdan -- one of four security chiefs imprisoned in May 2005 on suspicion of involvement in the Hariri assassination -- released as soon as possible. Rizk asked UNIIIC Commissioner Serge Brammertz three months ago about Muhammad Zuhayr Siddiq, whose testimony -- since discredited -- led to the chiefs' imprisonment, and why the chiefs had not been released. According to Rizk, Brammertz told him that he is not relying on Siddiq's testimony, but has "other evidence" against the former security heads. Even so, Rizk expects the upcoming Brammertz report to be simply another "executive report" with no specific finger-pointing.

19. (C) Aware that Rizk entertains his own designs on the Presidency, the Ambassador asked him his position on dealing with Hizballah and the Shi'a generally. Rizk said he has taken care to cultivate a relationship with Hassan Nasrallah, but hopes that further "poles" of independent Shi'a leadership can be developed. Remarking that Syrian exile Abdel Halim Khaddam told him that Berri is now being sidelined by the SARG, Rizk feels that Berri may be willing to challenge Hizballah's hegemony a little more (as he did last week in having his Amal ministers vote for the request for UNIFIL maritime assistance, contrary to Hizballah). Though Hizballah has been weakened in the recent conflict, Rizk feels that this in itself will not cause the group to disarm. He suggested that forward movement on the Sheba'a Farms issue, while not a "magic potion", would improve the GOL's position vis-a-vis Hizballah's weapons by removing the group's militant raison d'etre.

FELTMAN